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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,983	11/13/2003	Curtis Lee Carrender	E-1879 (130105.422)	7339

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EXAMINER	
ADE, OGER GARCIA	

ART UNIT	PAPER NUMBER
3687	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/712,983	CARRENDER ET AL.	
	Examiner	Art Unit	
	GARCIA ADE	3687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 March 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3,5-9 and 11-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3,5-9 and 11-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application.
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The amendment filed on **09.25.2009** has been considered. Applicants amended **claims 1, 3, 5, 8, and 12**, and cancelled **claims 2 and 4**.

- Applicants' response by virtue of amendment to **claims 1, 3, 5, 8, and 12** has overcome the Examiner's rejection under 35 USC §112, second paragraph.

- **Claims 1, 3, 5-15** are still pending in this application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. **Claims 1, 3, 5-13, and 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Issacman et al. [US 6,127,928] in view of Streetman [US 2004/0054570 A1], and further in view of Kato et al. [US 2003/0014143].

As per claims 1, 3, 5, 8, 9, and 12, Issacman discloses a device for use in conjunction with one or more encoders and with one or more encoders and with a plurality of transceivers along a delivery route, the transceivers configured to process information stored in the device by an the encoders to both sort and route an article associated with the device during delivery (e.g. ***devices and methods for locating and tracking***], the transceivers configured to process the information stored in the transponder [via PC 2, see column 4: lines 60-64 (e.g. ***for processing and detection***)], comprising:

- electromagnetic transponder formed on a flexible substrate and configured to be applied to the associated article and further configured to store information [as illustrated in figure 4, read as: Desktop exciter 26 may be coupled to optical scanner 27, which ***reads/captures alpha numerical/bar code and/or RFID information***, which may be, for example, associatively ***stored in a database***], in response to electromagnetic signals received from one or more of the encoders and to communicate the stored information to the transceivers as the transponder and the associated article move along the delivery route upon query from the transceivers, the stored information

received as control signal [see at least the abstract (e.g. ***transmits a coded RF signal***), column 8: lines 35-36, and column 12: lines 11-15].

Issacman substantially discloses all elements per claimed invention as explained above. Issacman does not explicitly disclose delivery cost and routing information, along with a delivery route. However, Streetman discloses a system and method for managing the delivery of products, items, materials and the like [see at least paragraph 2], and a logistics planning information system that store information regarding delivery cost [see paragraph 30, via ***computer network 120***], and a computer system having one or more user interfaces is provided to interact with a routing data consolidator and a routing engine [see abstract].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Issacman to include Streetman's system for storing information regarding delivery cost and routing information. Such a modification would provide a system and method for consolidating necessary delivery and routing information and generating one or more logistics plans for each delivery [see ***Streetman***: summary of the invention].

Issacman and Streetman substantially disclose all elements per claimed invention as explained above. The combination does not explicitly disclose control sorting of the articles without reference to a database linked to the transceivers, and a passive portable disposable electromagnetic transponder.

However, Kato discloses control sorting of the articles without reference to a database linked to the transceivers [see at least the ***abstract*** (e.g. ***sorting locations***

.... ***packages sorted according to the information in the labels on the packages***)]; and a passive portable disposable electromagnetic transponder [see at least the abstract (e.g. ***portable recorder or at sorting locations***)]

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the combination above to include Kato's control sorting of the articles without reference to a database linked to the transceivers in order to provide a method for tracking items in a package delivery system comprising writing into a plurality of storage labels, each of the labels associated with an item to be delivered, information concerning delivery of the items, said information useful for automated sorting and tracking the items along their passage to destinations; transporting the items and their associated labels [see ***Kato***: ***paragraph 7***].

As per claims 6 and 7, Issacman discloses a plurality of transceivers [as illustrated in ***figure 2***], one encoding device configured to code the at least one label with information [as illustrated in figure 4, read as: Desktop exciter 26 may be coupled to optical scanner 27, which ***reads/captures alpha numerical/bar code and/or RFID information***, which may be, for example, associatively ***stored in a database***].

Issacman does not explicitly disclose a predetermined routing device, a delivery destination, a delivery date, a delivery route, information regarding a sender, information regarding a receiver, information regarding the deliverable, and information regarding delivery cost.

However, Streetman discloses a predetermined routing device [as illustrated in figure 1 (e.g. block 130)], a delivery destination [see paragraph 29 (e.g. ***shipping***

destinations or delivery locations)], a delivery date [see paragraph 31 (e.g. ***delivery date criteria***)], a delivery route [see paragraphs 19 and 25], information regarding a sender, information regarding a receiver, information regarding the deliverable [see paragraph 35, via ***database 118***, ***database consolidator 112***, and ***database 118*** of figure 1], and information regarding delivery cost [see paragraph 30, ***via computer network 120***].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Issacman to include Streetman's features mentioned above. Such a modification would provide a system and method for consolidating necessary delivery and routing information and generating one or more logistics plans for each delivery [see ***Streetman***: summary of the invention].

As per claims 10 and 11, Issacman discloses wherein each transceiver is configured to communicate with a predetermined group of transponders [a conventional ***RFID tag system architecture is illustrated in FIG. 1 and includes PC 2, transceiver (transmitter/receiver unit) 4, and passive tag 6. The communication link between PC 2 and transceiver 4 may be via hard wiring, RF, or optical link. Transceiver 4 transmits an RF signal to tag 6, which excites tag 6. Transceiver 4 then receives a response from tag 6, which is transmitted to PC 2 for identifying the characteristics of tag 6***].

Issacman does not disclose that remote assets associated with the predetermined group of transponders. However, Streetman discloses that remote assets associated with the predetermined group of transponders [see at least paragraph

18 (e.g. ***wireless communications or any combination thereof may be used to couple the order processor 102 and the order processing system 128***)].

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Issacman to include Streetman remote assets associated with the predetermined group of transponders feature. Such a modification would provide a system and method for consolidating necessary delivery and routing information and generating one or more logistics plans for each delivery [see ***Streetman***: summary of the invention].

The combination of Issacman and Streetman does not explicitly disclose sorted and routed to a predetermined delivery path and all other remote assets are routed to a default path. However, Kato discloses sorted and routed to a predetermined delivery path and all other remote assets are routed to a default path [see at least the ***abstract*** (e.g. the label has a transmitter and the label makes use of power supplied by RF query signals to fetch the information stored and transmits such information to a label reader located either in a portable recorder or at ***sorting locations***. The packages are then delivered to local hubs of the receiving outlets where information in the labels of the packages are read and the ***packages sorted according to the information in the labels on the packages***)].

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the above combination and to include Kato's a predetermined delivery path and all other remote assets are routed to a default path in order to provide a method for tracking items in a package delivery system

comprising writing into a plurality of storage labels, each of the labels associated with an item to be delivered, information concerning delivery of the items, said information useful for automated sorting and tracking the items along their passage to destinations; transporting the items and their associated labels [see ***Kato***: ***paragraph 7***].

As per claim 13, Issacman discloses an initial step of encoding the transponder with information for use in generating control signals [see at least the abstract (e.g. ***a coded RF signal***), Isaacman further discloses that it is well know in the art that PFID tag systems generally consist of a personal computer (PC) or other computing device, a radio frequency transmitter which sends an RF signal to the tag and which "excites" the tag into generating an RF response, and a receiver which receives the excited response from the tag (see column 3: lines 11-16)].

As per claim 15, Issacman discloses communicating via a device for tracking the location of deliverables with each transceiver to track a location of deliverables [see filed of the invention (e.g. ***devices and methods for locating and tracking***)].

6. **Claim 14** is rejected under 35 U.S.C. 103(a) as being unpatentable over Issacman in view of Streetman in view of Kato, and further in view of Swift et al. [US 2003/0187796].

As per claim 14, Issacman, Streetman and Kato discloses substantially disclose all elements per claimed invention as explained above. The combination does not explicitly disclose purchasing at least one transponder and encoding the transponder with a purchase price.

However, Swift on the other hand, discloses purchasing at least one transponder and encoding the transponder with a purchase price [see at least claim 25 (e.g. ***a transaction request when a transponder is presented as payment of a purchase price for goods or services being purchased***)].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the above combination and to include Swift's features above in order to provide a transaction processing system that allows consumers to use modem payment technologies without incorporating the drawbacks of traditional credit or debit card technologies [see ***Swift***: summary of the invention, ***paragraph 10***].

Response to Arguments

7. Applicants' arguments with respect to **claims 1, 3, 5-15** have been considered but are moot in view of the new ground(s) of rejection.

In response to all of the limitations which Applicants dispute as missing in the applied references, including the newly added features in the **09.25.2009** amendment, have been fully addressed by the Examiner as either being fully disclosed or obvious in view of the teachings of **Issacman, Streetman, Kato and Swift** based on the logic and sound scientific reasoning of one ordinarily skilled in the art at the time of the invention, as detailed in the remarks and explanations given in the preceding sections of the present Office Action and in the prior Office Action, and incorporated herein. One cannot show nonobviousness by attacking references individually where the rejections

are based on combinations of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091,231 USPQ 375 (Fed. Cir. 1986).

In addition, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

However, Applicants argue that Issacman does not disclose "storing and retrieving sorting and routing information for a device to be delivered". The examiner respectfully disagrees.

Issacman in view of Streetman discloses a predetermined routing device [as illustrated in figure 1 (e.g. block 130) in ***Streetman***], a delivery destination [see ***Streetman***: paragraph 29 (e.g. ***shipping destinations or delivery locations***)], a delivery date [see ***Streetman***: paragraph 31 (e.g. ***delivery date criteria***)], a delivery route [see ***Streetman***: paragraphs 19 and 25], information regarding a sender, information regarding a receiver, information regarding the deliverable [see ***Streetman***: paragraph 35, via ***database 118***, ***database consolidator 112***, and ***database 118*** of figure 1], and information regarding delivery cost [see ***Streetman***: paragraph 30, ***via computer network 120***].

Applicants also argue that Streetman does not disclose "control signals generated from routing information stored in the transponder for sorting and routing

deliverables". The Examiner respectfully disagrees. In the above rejection, Issacman discloses that it is well know in the art that PFID tag systems generally consist of a personal computer (PC) or other computing device, a radio frequency transmitter which sends an RF signal to the tag and which "excites" the tag into generating an RF response, and a receiver which receives the excited response from the tag (see column 3: lines 11-16)].

Applicants argue that the combination of Issacman, Streetman, and Kato does not disclose "a deliverable along a delivery path utilizing information from a transponder received at a transceiver and without reference to a linked database by the transceiver or the routing device". The Examiner respectfully disagrees. See the above rejection of claims 1, 3, 5, 8, 9, and 12. However, Streetman discloses A computer system having one or more user interfaces is provided to interact with a routing data consolidator and a routing engine. The routing data consolidator is coupled to the computer system and consolidates the shipment information on the shipment orders. The routing data consolidator then generates consolidated shipment information [see ***Streetman***: abstract].

Applicants further argue that none of the references disclose "the storing of purchase price or cost information along with sorting and routing. The Examiner respectfully disagrees. However, Swift discloses a transaction processing systems that process transactions from merchant systems designed to convert the presentation of a transponder device into electronic debits from a checking account [see abstract].

The elements are all known but not combined as claimed. The technical ability exists to combine the elements as claimed and the results of the combination are predictable. When combined, the elements perform the same function as they did separately. The prior art differs from the claim by the substitution of some components. The substituted components were known. The technical ability existed to substitute the components as claimed and the result of the substitution is predictable.

Applicants' arguments having been found unpersuasive, the rejection has not been withdrawn.

Conclusion

8. The following prior art made of record and not relied upon is considered pertinent to Applicants' disclosure:

Gomez et al. Pub. No.: US 2005/0165784, teaches an information content files, such as text files, image files, XML files and the like, that provide information related to an identifier bearing item, such as a consumer item with a barcode, are stored on a data storage device such as network server. Identifier data entries, such as UPC data, are associated with file data entries, such as file names, in a database.

Contact Information

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to GARCIA ADE whose telephone number is (571)272-5586. The examiner can normally be reached on M-F 8:30AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on 571.272.3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a SPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Garcia Ade/
Examiner, Art Unit 3687

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Examiner
Art Unit 3687

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